



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed May 14, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Dane County Department of Human Services in regard to FoodShare benefits (FS), a hearing was begun on July 16, 2015 and continued and completed on August 28, 2015, at Madison, Wisconsin. At the request or agreement of petitioners ([REDACTED]), hearings set for June 3, 2015, July 1, 2015, and July 16, 2015 were rescheduled.

The petitioners, [REDACTED] and [REDACTED], agreed to the consolidation of their cases so that those cases were addressed in the July 16, 2015 and continued hearing on August 28, 2015 in the following cases: a) [REDACTED] in FOO-[REDACTED] and CCB-[REDACTED] regarding the discontinuances of both of those program effective April 1, 2015 ([REDACTED] did not timely appeal to DHA the April 1, 2015 discontinuance of her BC benefits); and b) [REDACTED] in FOO-[REDACTED], BCS-[REDACTED] and CCB-[REDACTED] regarding the discontinuances of each of those three programs effective April 1, 2015.

Attorney Yolanda Woodard represented only [REDACTED] in his three above cases, but [REDACTED] represented herself pro se during for her two above cases. This ALJ sent a September 4, 2015 Status Report to the parties.

The issue for determination in the above-captioned case is whether the county agency correctly discontinued petitioner's FoodShare (FS) benefits effective April 1, 2015, due to failure to timely verify accurate household composition and household income (boyfriend residing in petitioner's residence and his income).

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

[REDACTED]

By: [REDACTED] fraud investigator
Dane County Department of Human Services
1819 Aberg Avenue
Suite D
[REDACTED] 53704-6343

ADMINISTRATIVE LAW JUDGE:
Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County who resides with her three children.
2. Since about 2008, the petitioner's boyfriend has been [REDACTED]
3. [REDACTED] and [REDACTED] have two children in common: CW (age 4); and DW (age 1).
4. [REDACTED] has resided in one side of an attached duplex at [REDACTED], in [REDACTED] since 2008.
5. The petitioner has received FoodShare (FS), Child Care (CC), and BadgerCare (BC) benefits from the county agency during the period in question for this appeal.
6. [REDACTED] alleged that [REDACTED] resided in the other side of the duplex ([REDACTED]), but the agency established by the preponderance of the evidence that he actually resided with petitioner at [REDACTED] for at least the past four years and likely since 2008.
7. The county agency sent separate February 20, 2015 Notices of Proof Needed to [REDACTED] and [REDACTED] requesting verification of her household composition and information confirming his and her place of residence by the deadline of March 2, 2015. See Exhibit A. Both parties failed to timely provide the required verification to the agency.
8. [REDACTED] has been the owner/operator of the business, [REDACTED], located at [REDACTED]
9. [REDACTED] worked at [REDACTED] and helped to operate or co-manage that business for [REDACTED]. Exhibits F, G, H and I.
10. The county agency sent a March 9, 2015 Notice to [REDACTED] stating that her FoodShare (FS) and BadgerCare (BC) benefits would discontinue effective April 1, 2015, due to failure to provide timely required verification to the agency. Exhibit A.
11. The county agency sent March 3, 2015 Notices to [REDACTED] stating that his FS, BC and Child Care (CC) benefits would discontinue effective April 1, 2015, due to failure to provide timely required verification to the county agency. Exhibit A.
12. The county agency established with the following reliable evidence that [REDACTED] resided with [REDACTED] at [REDACTED] in [REDACTED]: a) mail sent by the agency to [REDACTED] at [REDACTED] was forwarded by the post office to [REDACTED] (Exhibit B); b) [REDACTED] and [REDACTED] have two very young children (ages 1 and 4) in common and the allegation that they live separately in the same attached duplex appears self-serving and highly questionable; c) Madison Detective [REDACTED] testified under oath that the landlord ([REDACTED]) during a June 10, 2015 interview stated to him that [REDACTED] is and has been

- a vacant property, and that [REDACTED] and [REDACTED] have resided together at [REDACTED] since 2008. Testimony of Detective [REDACTED] at the July 16, 2015 hearing.
13. The landlord of the duplex ([REDACTED]) testified to the following during the July 16, 2015 hearing: a) that [REDACTED] has been used for storage for at least the last few years; b) he has never issued a set of keys to [REDACTED] to live at [REDACTED]; c) [REDACTED] has been a “vacant,” uninhabited property since about 2008, and has been used for storage space which was supported by the reliable testimony of Madison Detective [REDACTED] (July 16, 2015 hearing) and Madison Police Officer [REDACTED] (August 28, 2015 continued hearing). Exhibit D.
14. [REDACTED] has had a close business relationship with [REDACTED]’s business, [REDACTED], but petitioner was not credible in her denial of such relationship because: a) the Articles of Incorporation for [REDACTED] indicate a continued usage of a mailing address of [REDACTED] (Exhibit F); b) [REDACTED] uses [REDACTED] on his Food and Drink licenses (Exhibit F, pp. 62-66); c) [REDACTED]’s signature is present on some of the health inspection documents associated with [REDACTED] (Exhibit F, pp 53-61 and Exhibit G); d) in social media, [REDACTED] represented herself as co-owning the business with [REDACTED] in a Wisconsin State Journal article and on a LinkedIn account (Exhibit I, pp 98-105); e) the contradictions in [REDACTED]’s testimony that she has little or nothing to do with [REDACTED]’s businesses are not credible; e) both [REDACTED] have the motive to hide that they reside together in order to maintain and continue separate public assistance cases in FS, BC and CC; and f) [REDACTED]’s ongoing denial of her involvement in [REDACTED]’s business undermined her overall credibility.

DISCUSSION

When dealing with the issue of the provision of information by a household, there is a clearly delineated process and a case may not be denied or **discontinued** unless those procedures are followed. That process is to specify in writing, what information is needed, and that the client has no less than a specific period of time in which to provide it. Generally that period of time is 30 days. However, in cases involving application or review, where the 30-day processing limit would not permit this much time, the agency is to allow no less than 10 days. Furthermore, the agency is required to assist the client when the client runs into difficulty in obtaining the needed documents. (See 7 C.F.R. §273.12(c); Income Maintenance Manual (IMM), Ch. I, Part C, 5.1.0).

For the purpose of these types of hearing, a case may only be closed, or denied, for a refusal to provide information, or for failure to provide requested verification within the specified period, after a written request.

During the July 16, 2015 and continued August 28, 2015 hearings, the county representative provided reliable documentation that the verification requests and negative notices were sent to the petitioner at her correct address of record. Those notices stated the reason for the discontinuance of petitioner’s FoodShare (FS) and child care (CC) due to failure to timely verify accurate household composition and income to the county agency. The petitioner was unable to refute the county’s case with any reliable testimony or evidence. It was the petitioner’s responsibility to provide all required information so that FS and CC eligibility could be accurately determined by the county agency. As indicated above, FS recipients are required to timely verify all necessary information to order to determine the petitioner’s child care eligibility and possible hours of child care authorization. The petitioner did not submit all required and accurate verification.

[REDACTED]

During the July 16, 2015 and continued hearing on August 28, 2015 and in its voluminous exhibits, the county agency representative and witnesses established that the county agency correctly discontinued the petitioner's FoodShare (FS) and Child Care (CC) benefits effective April 1, 2015, due to petitioner's failure to timely verify accurate household composition and income because [REDACTED] resided in her household and petitioner failed to provide his income information. As indicated in the above Findings of Fact, the agency performed a thorough investigation to confirm that it correctly discontinued the petitioner's FS and CC benefits. The testimony by Detective [REDACTED] was particularly persuasive in establishing that [REDACTED] has resided with [REDACTED] at [REDACTED] since about 2008. See Finding of Fact #12 above.

During the hearing and in her written closing argument, [REDACTED] attempted to undermine the agency's case and to create some questions about the reliability of the agency's case. [REDACTED] was not convincing in her many allegations. Petitioner attempted to undermine the reliability of documents (Exhibits F through I) by arguing that she had basically no interest in the business, [REDACTED]. However, she was unable to refute the significant documentation of her substantial involvement as an operator or manager/co-owner of that business. See Finding of Fact #14 above. Such clear inconsistencies and contradictions in her testimony undermined her overall credibility.

In addition, [REDACTED] continued to argue and insist that [REDACTED] resided at [REDACTED] during the period in question. Such allegation was not credible because there is reliable evidence in the hearing record that [REDACTED] has been used for "storage" since about 2008. See Finding of Fact #13. There were valid questions raised about the alleged "leases" to [REDACTED] to [REDACTED], and whether those "leases" were reliable and authentic evidence. The agency responded that the leases have likely been forged or altered.

In any case, the landlord, [REDACTED], was consistent in his testimony that he never issued any key to [REDACTED] to live at [REDACTED] and that if he needed to talk with [REDACTED] he went to [REDACTED]. The petitioner did present a questionable document from [REDACTED] alleging that [REDACTED] lived separately, but the authenticity of that document contradicted more credible and reliable testimony and evidence in the hearing record. Furthermore, [REDACTED]'s testimony in conjunction with the reliable testimony of Detective [REDACTED] and Officer [REDACTED] made very clear that [REDACTED] was a storage unit, not a residence for [REDACTED]. Moreover, [REDACTED] attempted to ignore the fact that she and [REDACTED] have two very young children together which in itself creates a strong likelihood that they reside together as they are "living" in an attached duplex.

On page one of his written September 25, 2015 Reply argument, Mr. [REDACTED] stated convincingly in pertinent part:

To address [REDACTED]'s claims of successfully verifying her living arrangement; evidence she presented was contradictory to landlord [REDACTED] testimony, to Detective [REDACTED]'s testimony, and to Officer [REDACTED]'s testimony. In measuring credibility and motive the landlord, detective, and officer should all be considered more credible since all have remained consistent in testimony and lack motive. [REDACTED]'s credibility due to inconsistent statements and motive (to remain eligible for benefits) should be considered questionable at best. The property of [REDACTED] is inhabited by both [REDACTED]. They have been residents of the property since at least 2008. The property of [REDACTED] is a vacant property since at least 2008 and [REDACTED] continues to be a vacant property. [REDACTED] has never been issued keys during the time frame in question to live at [REDACTED]. [REDACTED] only has access to the garage at [REDACTED] for storage with [REDACTED] assistance to unlock. The agency has also

██████████ demonstrated that leasing documents provided by both ██████████ ██████████ ██████████ ██████████ are highly questionable and likely forged without the consent of ██████████ ██████████. The couple has made a deliberate effort to hide the fact they reside together in order to maintain separate public assistance cases.

██████████ attempted to undermine ██████████'s reliability by alleging in vague terms that there may have been some type of affair between herself and ██████████ which ended badly resulting in ██████████ wanting to "retaliate against her." Such allegation was not established. In fact, ██████████ did not ask any question of ██████████ during his testimony regarding any motive for why he testified that ██████████ was only for storage, and that she and ██████████ resided together since 2008. What is most probative and reliable at this point was ██████████'s testimony under oath at the hearing, and that his testimony was consistent with what he told Mr. ██████████ in his fraud investigation and Detective ██████████ in his interview with ██████████.

The petitioner was unable to refute the county representative's testimony or documentation that her boyfriend (and the father of two of her children) resided in her household, and that his income must be verified in order for the county agency to determine whether petitioner continues to be eligible for any FS benefits. Based upon the hearing record, petitioner has failed to provide the requested verification to the agency about ██████████. Accordingly, for the above reasons, I conclude that the county agency correctly discontinued the petitioner's FS benefits effective April 1, 2015, due to failure to timely provide required verification regarding the father of her children in her home and his income in order to determine her continued FS eligibility and benefits.

CONCLUSIONS OF LAW

1. The petitioner failed to timely provide required accurate household composition and income verification of her boyfriend (██████████), and did not establish any good cause for such failure.
2. The county agency correctly discontinued petitioner's FS benefits effective April 1, 2015, due to petitioner's failure to timely verify to the county agency ██████████'s accurate residence and his income needed to determine petitioner's continued FS eligibility and benefits.

THEREFORE, it is

ORDERED

The petition for review herein be and the same is hereby Dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, ██████████ Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

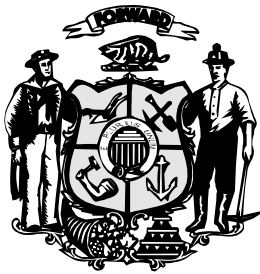
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 19th day of November, 2015

\sGary M. Wolkstein
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on November 19, 2015.

Dane County Department of Human Services
Division of Health Care Access and Accountability